

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

DUSTIN HOLMES

v.

MICHAEL J. ASTRUE, COMMISSIONER
OF SOCIAL SECURITY

§
§
§
§

ACTION NO.4:11-CV-305-Y

ORDER ADOPTING MAGISTRATE JUDGE'S
FINDINGS, CONCLUSIONS, AND RECOMMENDATION

On May 25, 2012, the United States magistrate judge issued his findings, conclusions, and recommendation in this case ("the findings"). In the findings, the magistrate judge recommended that the decision of the commissioner of the Social Security Administration of the United States ("the commissioner") denying Plaintiff's claims for disability insurance benefits be affirmed. The magistrate judge's order gave all parties until June 8 to serve and file with the Court written objections to his proposed findings.

Plaintiff filed his objections, asking this Court to reject the findings of the magistrate judge, reverse the commissioner's decision, and remand the case to the commissioner for further proceedings. The commissioner did not file a response.

The Court notes that the administrative law judge and the magistrate judge relied on the fact that one of Plaintiff's treating physicians, Dr. Diana Mummert, saw Plaintiff only once. Both the administrative law judge and the magistrate judge stated this fact could be used to give Dr. Mummert's opinion regarding Plaintiff's inability to perform available jobs less weight than the opinion rendered by Dr. Barbara Fletcher. (Tr. 63; FC&R 11-12.) But Dr. Fletcher also saw Plaintiff only once before rendering her opinions about Plaintiff's ability to work. (FC&R 11.) The short duration of Dr. Mummert's relationship with Plaintiff cannot support giving her opinion less weight than the opinion of Dr. Fletcher. But as noted by the magistrate judge, the administrative law judge could give Dr. Mummert's testimony less weight because it was inconsistent with other medical evidence in the record. Thus, the record as a whole supports the administrative law judge's conclusion that Plaintiff could adjust to other types of work and perform jobs in the national economy. After reviewing the findings, record,

case law, and Plaintiff's objections, the Court ADOPTS the magistrate judge's findings and conclusions as the findings and conclusions of this Court for the reasons stated therein and in this order. Thus, the Court AFFIRMS the commissioner's decision.

SIGNED June 19, 2012.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE